IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO. 9967 OF 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the Civil Judge ?

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MADHUBEN V. JANWAR - Petitioner(s)
Versus
J. D. ELECTRONICS PVT. LTD. - Respondent(s)

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Appearance :
Shri Rajesh K. Shah for Petitioner(s).
Shri R. C. Jani for Respondent(s).

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 23/08/2007

ORAL JUDGMENT

The workman, being aggrieved by the award dated 29th February, 2000 passed by the learned Labour Court, Ahmedabad in

Reference (LCA) No.22 of 1990, is before this Court with a submission that the learned Court below erred in rejecting the reference and further erred in recording the wrong findings.

2. The workman had come to the learned Labour Court with a submission that on 5th October, 1989, the Labour Inspector had come for inspection of the factory premises and at the time of the inspection, the workman made certain complaints stating that the rules made under the Factories Act and other requirements of law were not being observed. It was also stated to the Labour Inspector that the Company was not providing the identity card, leave card and was not maintaining the muster rolls and that the minimum wages were also not paid. According to the workman, being aggrieved by this complaint, she was orally terminated on 6th October, 1989. According to her, if she was a permanent worker, she could not be removed in such a manner.

3. The present respondent raised various disputes submitting, *inter alia*, that she was not removed from the services and her claim was absolutely ill-founded. After hearing the parties, the learned Court below held that the claim was ill-founded, it was not substantiated by the legal evidence and there were material variance between the pleadings and the proof. The learned Labour Court also observed that in fact, the

workman was changing her stand and stance time and again and therefore, she was not reliable. It, accordingly, rejected the reference.

4. Shri R. K. Shah, learned Counsel for the petitioner, after taking me through the judgement of the learned Labour Court, submitted that there were little discrepancies, which could not be termed as contradictions or omissions amounting to contradictions, and such discrepancies like date of termination, oral removal, etc. would not make much of difference.

5. Shri R. C. Jani, learned Counsel for the respondent, on the other hand, submitted that present is a case where after appreciating the entire evidence, the learned Court below has recorded the findings into the conduct of the workman and such findings, if are based on evidence available on the record and the findings cannot be said to be perverse, then, this Court must refuse to interfere under Article 227 of the Constitution of India.

6. The learned Court below in paragraphs 7 and 8 of the judgement, has given reasons not to rely upon the statements made by the workman. The learned Court has found that at one point of time, the workman had said that she was removed on 1st October, 1989, thereafter, she said that she was removed on 5th October, 1989 and

thereafter, she started saying that she was removed on 6th October, 1989. Apart from this, the learned Court below has also considered other material. In the opinion of this Court, the findings recorded by the learned Court below cannot be termed as bad or perverse, the findings are based on due appreciation of the evidence.

7. In my jurisdiction under Article 227 of the Constitution of India, I do not find any reason to interfere. The petition deserves to and is, accordingly, dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

[R.S.Garg, J.]

*kamlesh**